

## § 590.1

## 9 CFR Ch. III (1-1-07 Edition)

590.970 Charges for storage, cartage, and labor with respect to products imported contrary to the Act.

AUTHORITY: 21 U.S.C. 1031-1056.

SOURCE: 36 FR 9814, May 28, 1971, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977 and 46 FR 63203, Dec. 31, 1981. Further redesignated at 63 FR 72353, Dec. 31, 1998.

### DEFINITIONS

#### § 590.1 Meaning of words.

Under these regulations, words in the singular shall be deemed to mean the plural and vice versa, as the case may demand.

#### § 590.5 Terms defined.

For the purpose of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

*Acceptable* means suitable for the purpose intended and acceptable to the Administrator.

*Act* means the applicable provisions of the Egg Products Inspection Act (Pub. L. 91-597, 84 Stat. 1620 *et seq.*).

*Administrator* means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

*Adulterated* means any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b)(1) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may in the judgment of the Secretary, make such article unfit for human food;

(2) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(3) If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(4) If it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not otherwise deemed adulterated under paragraph (b)(2), (3), or (4) of this definition shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(c) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(d) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(e) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(f) If its container is composed, in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health;

(g) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(h) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

*Ambient temperature* means the air temperature maintained in an egg storage facility or transport vehicle.

*Applicant* means any person who requests any inspection service as authorized under the Act or the regulations of this part.

*Capable of use as human food* means any egg or egg product, unless it is denatured, or otherwise identified, as required by these regulations to deter its use as human food.

*Chief of the Grading Branch* means Chief of the Poultry Grading Branch, Poultry Division, Agricultural Marketing Service.

*Class* means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, type, or method of processing.

*Commerce* means interstate, foreign, or intrastate commerce.

*Condition* means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability; or any condition, including but not being limited to, the processing, handling, or packaging which affects such product.

*Container* or *Package* includes for egg products, any box, can, tin, plastic, or other receptacle, wrapper, or cover and for shell eggs, any carton, basket, case, cart, pallet, or other receptacle.

(a) *Immediate container* means any package or other container in which egg products or shell eggs are packed for household or other ultimate consumers.

(b) *Shipping container* means any container used in packing an immediate container.

*Department* means the U.S. Department of Agriculture.

*Dirty egg* or *Dirties* means an egg(s) that has an unbroken shell with adhering dirt or foreign material.

*Egg* means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea. Some of the terms applicable to shell eggs are as follows:

(a) *Check* means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(b) *Clean and sound shell egg* means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(c) *Dirty egg* or *Dirties* means an egg(s) that has a shell that is unbroken and has adhering dirt, foreign material, or prominent stains.

(d) *Incubator reject* means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(e) *Inedible* means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots, sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(f) *Leaker* means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(g) *Loss* means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(h) *Restricted egg* means any check, dirty egg, incubator reject, inedible, leaker, or loss.

*Egg handler* means any person, excluding the ultimate consumer, who engages in any business in commerce that involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

*Egg product* means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products. For the purposes of this part, the following

products, among others, are exempted as not being egg products: Freeze-dried products, imitation egg products, egg substitutes, dietary foods, dried no-bake custard mixes, egg nog mixes, acidic dressings, noodles, milk and egg dip, cake mixes, French toast, and sandwiches containing eggs or egg products, provided, such products are prepared from inspected egg products or eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs. Balut and other similar ethnic delicacies are also exempted from inspection under this part.

*Eggs of current production* means shell eggs which have moved through the usual marketing channels since the time they were laid and are not in excess of 60 days old.

*Fair Packaging and Labeling Act* means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

*Federal Food, Drug, and Cosmetic Act* means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

*Inspection* means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of the Egg Products Inspection Act and the regulations under this part.

*Inspection service* means the official service within the Department having the responsibility for carrying out the provisions of the Egg Products Inspection Act. Inspection service also means the activities performed, including official reporting by such official service.

*Inspector/Grader* means:

(a) Any employee or official of the United States Government authorized to inspect eggs or egg products under the authority of this part; or

(b) Any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this part, under an agreement entered into between the Secretary and the appropriate State or other agency.

*Interested party* means any person financially interested in a transaction involving any inspection or appeal inspection of any product, or the decision of an inspector.

*Label* means a display of any printed, graphic, or other method of identification upon the shipping container, if any, or upon the immediate container, including but not limited to, an individual consumer package of eggs and egg products, or accompanying such product.

*Misbranded* means any egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Administrator under this part.

*National Supervisor* means:

(a) The officer in charge of the inspection service; and

(b) Such other employee of the Service as may be designated by him.

*Nest-run eggs* means eggs which are packed as they come from the production facilities without having been washed, sized and/or candled for quality, with the exception that some checks, dirties, or other obvious undergrades may have been removed.

*Official certificate* means any certificate prescribed by regulations of the Administrator for issuance by an inspector or other person performing official functions under this part.

*Official device* means any device prescribed or authorized by the Secretary for use in applying any official mark.

*Official identification* means the official inspection mark or any other symbol prescribed by regulations of this part to identify the status of any article.

*Official inspection mark* means any symbol prescribed by the regulations of the Administrator showing that egg products were inspected in accordance with this part.

*Official standard* means the standards of quality, grades, and weight classes for eggs.

*Office of inspection* means the office of any inspector.

*Pasteurize* means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable microorganisms by such processes as may be prescribed by these regulations.

*Person* means any individual, partnership, corporation, association, or other business unit.

*Pesticide chemical, Food additive, Color additive, and Raw agricultural commodity* shall have the same meaning for purposes of this part as under the Federal Food, Drug, and Cosmetic Act.

*Plant* means any place of business where egg products are processed:

(a) *Exempted plant* means any plant where the Administrator has determined the facilities and operating procedures meet such standards as may be prescribed by this part, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of U.S. Consumer Grade B for shell eggs, and where an exemption has been granted.

(b) *Official plant* means any plant in which the plant facilities, methods of operation and sanitary procedures have been found suitable and adequate by the Administrator for the continuous inspection of egg products in accordance with this part and in which inspection service is carried on.

*Potable water* means water that has been approved by a State health authority or other agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

*Processing* means manufacturing of egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing or drying, or packaging egg products at official plants.

*Producer-packer* means any producer who sorts eggs only from his own production and packs them into their various qualities.

*Quality* means the inherent properties of any product which determine its relative degree of excellence.

*Regional Director* means any employee of the Department in charge of inspection service in a designated geographical region.

*Regulations* means the provisions in this part.

*Regulatory inspector* means any employee of the U.S. Government, or State or local jurisdiction, who is authorized by the Secretary to make such

inspections as required in §590.28 of these regulations.

*Sampling* means the act of taking samples of any product for inspection or analyses.

*Sanitize* means the application of a bactericidal treatment which is approved as being effective in destroying microorganisms, including pathogens.

*Secretary* means the Secretary of Agriculture or his delegate.

*Service* means the Agricultural Marketing Service (AMS) of the Department.

*Shell egg packer (grading station)* means any person engaged in the sorting of eggs from sources other than or in addition to his own production into their various qualities, either mechanically or by other means.

*Stabilization* means the subjection of any egg product to a desugaring process.

*State* means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

*Ultimate consumer* means any household consumer, restaurant, institution, or any other party who has purchased or received shell eggs or egg products for consumption.

*United States* means the States.

*Washed ungraded eggs* means eggs which have been washed but not sized or segregated for quality.

*White or albumen* means, for the purpose of this part, the product obtained from the egg as broken from the shell and separated from the yolk.

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#### ADMINISTRATION

#### § 590.10 Authority.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act, and this part. The Administrator